

APPROVED:

ATTEST: *Paula J. Jewell*

MAYOR AND COUNCIL  
ROCKVILLE, MARYLAND  
Meeting No. 28-94

October 10, 1994

The Mayor and Council of Rockville, Maryland, convened in General Session in the Council Chamber, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland, on October 10, 1994, at 7:35 p.m.

PRESENT

Mayor James F. Coyle

Councilmember Robert E. Dorsey

Councilmember Rose G. Krasnow

Councilmember James T. Marrinan

Councilmember Nina A. Weisbroth

In attendance: City Manager Bruce Romer, City Clerk Paula Jewell and City Attorney Paul Glasgow.

Re: City Manager's Report

1. On October 15th, the 33rd Annual Rockville Classic Car Show will take place from 10 a.m. to 4 p.m. The City was anticipating over 500 displays of classic and antique automobiles, and there will be a lot of food, entertainment, and events for children and adults.
2. The City has been closely following the issue of unfunded mandates and opposing any legislation that would institute those mandates. Mayor Coyle received communications from the National League of Cities and the U.S. Conference of Mayors regarding a new move to recognize National Unfunded Mandates week, October 24-30. Mr. Romer noted that the City's involvement in the effort was important, but with Congress having adjourned without taking up the two main mandate bills, the prospect for picking up the legislation was limited. Staff will be watching the matter very closely and were hoping to have additional information at the October 24th General Session.

3. Mr. Romer said that he had received notice that two of the City's long-term City employees were retiring in early 1995. Chief of Planning, Larry Owens, is retiring after more than 25 years, and the Assistant Director of Public Works, Don Douglass, announced his retirement after 30 years. Mr. Romer said that both employees were a very important part of the City's operation and would be missed.

4. In accordance with the schedule adopted by the Mayor and Council on the ice rink presentation, a staff report was distributed to the Mayor and Council and was also available to citizens, which answers questions and addresses issues raised by citizens. Mr. Romer noted that the report detailed a number of efforts staff will be following with citizen education and input. Staff was also maintaining a listing of interested citizens who will automatically receive a copy of the report. The City was also considering the idea of an ice arena citizen advisory committee and was taking the names of volunteers who are interested in serving on that committee. Staff has planned a neighborhood informational meeting on October 25, at 7:30 p.m. at Beall Elementary School to provide an opportunity for citizens hear a presentation about the proposal and ask questions.

Councilmember Krasnow said she was concerned about the schedule that called for Mayor and Council approval of a concept project on 11/14/94. She said while it was footnoted that this date was a decision milestone that would decide whether the Mayor and Council go forward or reject the project, it still implied approval. She again expressed that the Mayor and Council did not have enough information at this time, and that the concept could be accepted, or the Mayor and Council may determine that it was not feasible. Mr. Romer noted that the schedule was written in the affirmative, but it was clear that each milestone implied a decision that the Mayor and Council would have three opportunities to either make a "go" or

"no go" decision, and it was clear that there was opportunity for Mayor and Council to stop the project at any point.

Councilmember Marrinan added that during his October 8th Drop-In, he met with four individuals who expressed concerns about how the proposal might impact on their immediate community. Mr. Marrinan said he was pleased that the City was having the neighborhood meeting, and he encouraged anyone concerned to attend. Mr. Marrinan said his Drop-In visitors pointed out that a number of people felt that the decision had already been made for the City to go forward with the proposal. He emphasized that the project was only a proposal and it was clearly not imminent; at any time during this period, the proposal could be changed, modified or rejected. He also said the City had a tradition of providing excellent youth and recreational facilities, and the idea, in concept, had a lot of merit; however it needed to be analyzed to ensure that any adverse impacts would be minimized for residents who lived near where a proposed rink would be built.

Mayor Coyle asked if the informational meeting would focus on The Miller Companies specific proposal or on the general concept of an ice rink facility along with other sites. Mr. Romer said the plan was to present the idea in a more general form for the concept to be discussed; he said that staff would borrow from the information presented by The Miller Companies; the presentation would be conducted by staff, although staff was anticipating there would be a lot of questions that related to the specific presentation made by the Miller Companies. Mr. Romer said while the character of the presentation that staff was planning to use was more general and not necessarily site specific, they would not ignore the fact that an earlier presentation had been made.

Councilmember Weisbroth suggested that there might be some confusion because there were three key concerns involved--The Miller Companies' proposal, the use of Welsh Park, and the question whether there were any other sites for an ice rink facility. Mr. Romer said that staff's task would be to try to inform everyone on all the issues.

Re: Proclamation declaring October 16-22, 1994 as **ROCKVILLE CHARACTER COUNTS! WEEK.**

By a unanimous vote of the Mayor and Council, October 16-22, 1994 was declared "Character Counts" in Rockville. Upon the request of the Mayor, Councilmember Krasnow read the Proclamation, the full text of which can be found in Proclamation File No. 7 of the Mayor and Council. The Proclamation was presented to Representatives of Julius West Middle School's English for Speakers of Other Language (ESOL) / Students Helping Other People (S.H.O.P.) accepted the Proclamation.

Re: Presentation of the 1994 Heritage Award to the Mayor and Council, by Galo Correa, President of Hispanics United for Rockville.

Mr. Correa presented the award to the Mayor and Council and the City Manager in recognition for the City's outstanding collaboration with the Latino community in the celebration of the "Heritage Month".

Re: Introduction of Gwendolyn Tolbert, new Executive Director of the Rockville Housing Authority.

Ardell Hilliard, Chair and Harrison Fox, Vice Chair of the Housing Authority Board of Commissioners, introduced Ms. Tolbert who assumed her position on October 3,

1994. Ms. Tolbert had attended the Rockville Senior Staff meeting on October 4th, and had also met many of the citizens at the Lincoln Park Civic Association meeting. Mr. Fox expressed appreciation to the City Manager for the City's assistance in the selection process for the new Director.

Re: Citizens Forum - This time is set aside to hear from any citizen who wishes to address the Mayor and Council.

1. Dr. James Moone, President, Southern Christian Leadership Conference (SCLC)

said that SCLC had taken a position to support Question B on the November 8th ballot; he asked that the Mayor and Council and Rockville residents also support the amendment. Dr. Moone also expressed appreciation to the Mayor and Council and City Manager for the successful summer computer program that SCLC conducted over the summer, and he said SCLC looked forward to a meeting with the Mayor and Council they were planning to request in November to report on SCLC's activities. Mr. Moone also reported on the SCLC convention in Dallas, Texas; the membership expressed an interest in returning the convention to Rockville in the year 2005. Dr. Moone then stated that the Falls Road bridge was an accident waiting to happen because there was a need for additional safety markings. Mayor Coyle asked that Mr. Romer follow up on this.

Councilmember Krasnow added that the maintenance of the Falls Road bridge intersection also needed to be looked at, as the posts in the middle strip were now lying in the middle of the roadway. Mr. Moone also asked that a review be made of the timing of the traffic light at Potomac Valley Road and Maryland Avenue exit off of Falls Road. Dr. Moone

then distributed the latest edition of the SCLC convention magazine and said that this year's convention theme was "Redeeming America...Stop the Killing."

2. Charles Hayne, 609 Monroe Street said he moved to the City last April, and he understood that the Mayor and Council would be considering a question on town house overlays in a residential area. Mr. Hayne said that prior to purchasing his home, he had reviewed the Master Plan regarding the property that was adjacent to his property, and his understanding of the Master Plan showed that the area was zoned for single-family, medium density, detached housing. He said the townhouse development currently proposed would detract from the neighborhood, increase traffic and noise, and with a 30-foot setback, there could be minimal buffering.

Mayor Coyle explained that historically, the overlay district was proposed for a buffer between Town Center and existing neighborhoods. He said it was unfortunate it was being used, while rightfully so, by developers because it was not specific enough to be used in other areas of the city where there was the opportunity for a property to be developed for town houses as opposed to single-family homes. Mayor Coyle said the Mayor and Council were concerned about the issue and were planning to review the development process to protect the interests in neighborhoods when the applications come to the Mayor and Council for any decision.

3. Lynn Perry Parker, 7 East Argyle Street said that when a piece of property was purchased, a buyer looked at the whole scope of the neighborhood. She said that what was being proposed materially changed the character of her home site; currently she looks out her window to a site of old established trees and a portion of a single family house, and the proposal would have her looking down into a solid block of aluminum siding. She said while she was

not against all development, what was being proposed was fundamentally unfair to what they purchased.

4. David Wolfe, Member, New Mark Commons Home Owners Association said his association was opposed to town houses on that site and felt very strongly that town houses located there would invade the residents' privacy, create a great deal of noise and destruction, and change the character of the neighborhood. He said the residents hoped the Mayor and Council would stay with the single family plan.

5. Bob Forestberg, Resident of New Mark Commons said he moved to Rockville in October 1967, and he was adversely affected by the proposed development. He said the back of his contemporary house which faced the property was glass, and at one time the proposal called for putting in parking lots. However, he said this had since changed, and now the proposal called for three story town houses. He said he said he did not object to individual houses or to what already existed in New Mark Commons, but he did object to the proposal.

6. Steve Fisher, representing Montgomery College Alumni Association and the Montgomery College Foundation Board of Directors explained Question B and said that the County's affordability law put a cap on Montgomery College's budget and the College would like to have the affordability issue relieved in regards to grants and tuition revenues. He asked that the Mayor and Council endorse the effort, and he encouraged everyone in the Rockville community to support Question B.

7. Antoinette Hastings, Provost of the Rockville Campus at Montgomery College asked the Mayor and Council and citizens to support Question B which would exclude from the affordability limits, tuition, grants and fees that accrue to the college that were non-tax revenues and are included in their affordability limit and therefore limited their ability to spend monies

they gained through their own resources. Ms. Hastings said if the College were to get a surge of enrollment, they could not spend the money that the tuition would bring in without going back to the County for approval. Councilmember Krasnow suggested that the Mayor and Council discuss the issue under new business. Ms. Hastings offered to provide information packets that explained the issue as well as a list of persons who supported the question.

8. Joe Lynott, Attorney, Federal Realty Investment Trust said that in the event the Mayor and Council decided to take affirmative action and approve the Text Amendment Application for Federal Realty, he asked that they expedite the decision by waiving the layover period between the introduction and adoption of the Ordinance on October 24th. Mr. Lynott also pointed out that the evidence presented at the public hearing established that there will be minimal impact on the residential component of the RPR zone; the maximum residential units permitted now in the RPR Section was some 302 units, and even if the amendment was granted, they would still have opportunity for 252 units.

Re: Appointments

Upon motion of Councilmember Weisbroth, duly seconded and unanimously passed, Regina McAndrew was reappointed to serve on the Housing Authority Board of Commissioners.

Re: Approval of Minutes

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the Minutes of Meeting No. 25-94 (September 12, 1994) were approved as amended.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the Minutes of Meeting No. 26-94 (September 19, 1994) were approved as written.



Upon motion of Councilmember Dorsey, duly seconded and unanimously passed, the Minutes of Meeting No. 27-94 (September 26, 1994) were approved as written.

Re: Consent Agenda

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the following Consent Agenda items were approved.

(A) Award of Bid #94-20

To: Kent Meters, Inc.  
Of: Oscala, Florida  
In the amount of: \$35,663.00

For: Providing water meters

(B) Award of Bid #IFB 50011139

To: B.P. Oil Co., of Cleveland, OH  
Petron Oil Co., of Exton, PA  
Naughton Energy, of Pocono Pines, PA  
Fannon Petroleum Co., of Alexandria, Va  
In the amount of: \$23,500

For: Provision and delivery of heating oil to various City facilities through COG Cooperative Contract.

(C) Receipt of financial reports summarizing the results of City operations for the period from July 1, 1994, through August 31, 1994.

Re: Discussion and Instructions to Staff -  
Text Amendment Application TXT94-0142, F&H Investments Ltd. Partnership, Jefferson Street Joint Venture & 1570 Associates Ltd. Partnership, Applicants.

Amendment to the Zoning Ordinance so as to allow certain nonconforming

buildings in the RPR Zone to be reoccupied by uses permitted in the C-2 Zone, and to provide for reconstruction of the existing buildings.

Mr. Romer noted that the required a public hearing was held on the text amendment, and the Planning Commission recommended adoption of a modification of the proposal. Councilmember Marrinan said after hearing all the testimony, there was no compelling reason not to approve the amendment, and he said he would be in support of going ahead with the application. Councilmember Krasnow said she was concerned at first about grandfathering in a zoning use, even if the building changed hands, but in thinking about the concept, she was convinced that what was envisioned when the RPR zone was first put into place was a redevelopment of a totally different character than what was being were experienced and it was clear that type of redevelopment would not happen for some years. Ms. Krasnow said she was concerned about limiting the current use because it did not make sense right now to have a residential component. Ms. Weisbroth said that without the text amendment, the problem would be compounded, and it would cause a hardship to the owners who would not be able to reuse their buildings. Mr. Dorsey asked for a further explanation of the three-month time limit for re-occupancy. Senior Planner, Lisa Rother explained that when there was nonconforming use and the use existed prior to the time that the zoning change took place, if that uses ceased for a period of 90 days, then it could not reoccupy the space and the text amendment would make the law not apply to specific properties. Without objection, staff was instructed to prepare the ordinance for introduction at the October 24th General Session.

Re: Discussion and Instructions to Staff -  
Text Amendment Application TXT94-  
0144, Joseph A. Lynott, Attorney for  
Federal Realty Investment Trust,  
Applicant.

To amend the Zoning Ordinance so as  
to allow additions to certain  
developments in the RPC Zone to  
encroach into the RPR Zone.

Mr. Romer explained that the required public hearing was held on the text amendment, and that City planning staff, in their initial report, had recommended approval of the text amendment. Subsequent to that, the Planning Commission recommended denial. Mayor Coyle explained that the Planning Commission's concern was of a technical nature regarding the Master Plan and where the line was incorporated showing where the residential components would be, versus the commercial development.

Councilmember Krasnow said she was in favor of the text amendment. She said that given the redevelopment of Congressional plaza, it was not about to turn into a major high rise development that would need a buffer. Ms. Krasnow expressed concern about the set-back provisions that staff incorporated into the text amendment to prevent non-residential development from relocating too close to East Jefferson. She said a developer could come in and develop a very narrow wedge that would effectively prevent the type of residential use the City was trying to encourage. Mayor Coyle said he had spoken to the owner of Congressional North and South since the public hearing, and the owner was in favor of the text amendment. Councilmember Marrinan said he felt there were two separate issues with Congressional North, and he agreed with the Planning Commission and staff that there were significant differences between their proposal and the Congressional Plaza shopping center and that a separate text

amendment application was necessary. Mr. Marrinan also said the benefits of going forth with this far outweighed the relatively minor encroachment on the RPR zone and he supported moving ahead with the text amendment.

Councilmember Weisbroth expressed appreciation for the point raised by the Planning Commission; she noted the residents who appeared during evening's Citizens Forum and spoke about development issues with the Master Plan in hand. Ms. Weisbroth said the Master Plan did play a role and was meaningful to the residents. She said there were times when it was appropriate to make changes to the Master Plan and that this particular legislation could not be implemented until there was a full scale change on that particular property and the redevelopment occurring on that site was occurring to what already existed. Ms. Weisbroth added that the text amendment would provide a nice opportunity to make some changes without hurting what might be available in the future. Mayor Coyle said it was also significant that the petitioner, who was also the owner of the property, was making an investment now and that the site would become their headquarters. Without objection, staff was directed to prepare the ordinance for introduction and adoption on October 24th.

Councilmember Krasnow rephrased her earlier comments regarding the way encroachments could be placed; she had asked that the text amendment address this; she noted that the point was made by staff that the exact placement Federal Realty talked about was known and that the other two sites did not have frontage on East Jefferson. She also noted that at the public hearing, she had asked Mr. Lynott what would happen if Federal Realty had to expand and his response was that they would have to come before the Mayor and Council for another text amendment. Ms. Krasnow said she was comfortable with going ahead with the text amendment, as it was written.

Re: FYI/Correspondence

1. Councilmember Weisbroth commented on the minutes received from the Human Rights Commission, noting that some were as late as eight months old, and she asked that the Mayor and Council receive these more quickly.
2. Councilmember Marrinan noted the proposal to recognize "Character Counts Week," and he pointed out that the program was not just within the Washington Metropolitan area, there were other cities and states in the U.S. who had engaged the issue. Mr. Marrinan asked that the City's "End Violence Now" campaign be added to the Council of Governments (COG) agenda and that the City reinforce and supplement what COG was doing as well as look at what other communities were doing. Mr. Marrinan said he welcomed suggestions from staff on how the City could develop more self, family, and community awareness about the issue.
3. Mayor Coyle noted that Rockville Center Inc. Newsletters were available at City Hall.
4. Councilmember Dorsey announced that on Saturday, October 15th, the Lincoln Park Historical Society was celebrating their second annual "Everybody's Birthday," a fun event where 12 buffet style tables were set up and decorated for each month in a collective birthday celebration for everyone. The event will be held at the Lincoln Park Community Center, from 4:00 to 7:30 p.m.
5. Councilmember Krasnow noted a letter received regarding Route 28 and also a letter from Mike Gordon enclosing correspondence he had written to the State Highway Administration noting the concerns of several Rockville residents about traffic coming off I-270, going north and trying to merge at the Route 28 intersection. She asked that staff address this concern, as well as the Falls Road bridge concern with the State Highway Administration.

Re: New Business

1. Election Ballot Question B. City Attorney Glasgow noted that historically, the Mayor and Council have not taken a position on County ballot issues unless those issues had been specifically related to the City of Rockville. However, he said that positions have been taken on other issues, i.e., the South Africa apartheid situation. Mr. Glasgow said that if the Mayor and Council felt that this was of merit, there was nothing in the City's Charter or laws prohibiting them from taking a position on the issue. Mr. Romer was asked to find out why the County Council voted to put the issue on the ballot. Mayor Coyle suggested that the Mayor and Council review the materials provided by Dr. Hastings and then discuss the issue after the October 17th public hearing.

Councilmember Dorsey said he was concerned about the possibility of the Mayor and Council setting a precedent which might invite them to be the conduit for other issues, like this one, and where more time would be spent wrestling with endorsements of those issues, rather than on the City's business. He said he hoped the City could come up with a comfortable position on Question B and in doing so, did not invite too much of the wrong kind of business coming before the Mayor and Council.

2. Mr. Dorsey applauded the efforts of the City's Public Information Officer, Don Vandrey, for getting the City on line with CAPACCESS, the information highway computer line.

Re: Next Meeting

The Mayor and Council will hold a public hearing on October 17, 1994 regarding Annexation Petition X-119-94, B. F. Saul Real Estate, Petitioner.

Re: Adjournment

There being no further business to come before the Mayor and Council, the meeting was adjourned at 9:13 p.m., to convene again in Public Hearing at 7:30 p.m. on Monday, October 17, 1994, or at the call of the Mayor.